

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL

No. 1103

Introduced by Senator Aanestad

February 17, 2010

An act to amend Section 2207 of the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 1103, as amended, Aanestad. Surface mining: idle mines: low gross exemption.

Existing law prohibits, with exceptions, a person from conducting a surface mining operation unless, among other things, a reclamation plan has been submitted to and approved by the lead agency for the operation. Existing law requires an operator, within 90 days of a surface mining operation becoming idle, as defined, to submit to the lead agency for review and approval, an interim management plan. Existing law requires the State Mining and Geology Board to impose an annual reporting fee on each active and idle mine. Existing law establishes an exemption to the fee for certain low grossing mines.

This bill would ~~require~~ *provide that a mining operation single operator of a mining operation or a mining company with a single mining operation that is declared becomes idle, and that is operating under an interim management plan because of its minimum annual production level, to shall qualify, on a calendar year basis, for the low gross exemption, if the mining operation is also in compliance with applicable sections of the Public Resources Code, including the Surface Mining and Reclamation Act of 1975, as well as with the regulations adopted thereunder.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2207 of the Public Resources Code is
2 amended to read:
- 3 2207. (a) The owner or the operator of a mining operation
4 within the state shall forward to the director annually, not later
5 than a date established by the director, upon forms approved by
6 the board from time to time, a report that identifies all of the
7 following:
 - 8 (1) The name, address, and telephone number of the person,
9 company, or other owner of the mining operation.
 - 10 (2) The name, address, and telephone number of a designated
11 agent who resides in this state, and who will receive and accept
12 service of all orders, notices, and processes of the lead agency,
13 board, director, or court.
 - 14 (3) The location of the mining operation, its name, its mine
15 number as issued by the Bureau of Mines or the director, its section,
16 township, range, latitude, longitude, and approximate boundaries
17 of the mining operation marked on a United States Geological
18 Survey 7 1/2-minute or 15-minute quadrangle map.
 - 19 (4) The lead agency.
 - 20 (5) The approval date of the mining operation's reclamation
21 plan.
 - 22 (6) The mining operation's status as active, idle, reclaimed, or
23 in the process of being reclaimed.
 - 24 (7) The commodities produced by the mine and the type of
25 mining operation.
 - 26 (8) Proof of annual inspection by the lead agency.
 - 27 (9) Proof of financial assurances.
 - 28 (10) Ownership of the property, including government agencies,
29 if applicable, by the assessor's parcel number, and total assessed
30 value of the mining operation.
 - 31 (11) The approximate permitted size of the mining operation
32 subject to Chapter 9 (commencing with Section 2710), in acres.
 - 33 (12) The approximate total acreage of land newly disturbed by
34 the mining operation during the previous calendar year.

1 (13) The approximate total of disturbed acreage reclaimed during
2 the previous calendar year.

3 (14) The approximate total unreclaimed disturbed acreage
4 remaining as of the end of the calendar year.

5 (15) The total production for each mineral commodity produced
6 during the previous year.

7 (16) A copy of any approved reclamation plan and any
8 amendments or conditions of approval to any existing reclamation
9 plan approved by the lead agency.

10 (b) (1) Every year, not later than the date established by the
11 director, the person submitting the report pursuant to subdivision
12 (a) shall forward to the lead agency, upon forms furnished by the
13 board, a report that provides all of the information specified in
14 paragraphs (1) to (16), inclusive, of subdivision (a).

15 (2) The owner or operator of a mining operation shall allow
16 access to the property to any governmental agency or the agent of
17 any company providing financial assurances in connection with
18 the reclamation plan, in order that the reclamation can be carried
19 out by the entity or company, in accordance with the provisions
20 of the reclamation plan.

21 (c) Subsequent reports shall include only changes in the
22 information submitted for the items described in subdivision (a),
23 except that, instead of the approved reclamation plan, the reports
24 shall include any reclamation plan amendments approved during
25 the previous year. The reports shall state whether review of a
26 reclamation plan, financial assurances, or an interim management
27 plan is pending under subdivision (b), (c), (d), or (h) of Section
28 2770, or whether an appeal before the board or lead agency
29 governing body is pending under subdivision (e) or (h) of Section
30 2770. The director shall notify the person submitting the report
31 and the owner's designated agent in writing that the report and the
32 fee required pursuant to subdivision (d) have been received, specify
33 the mining operation's mine number if one has not been issued by
34 the Bureau of Mines, and notify the person and agent of any
35 deficiencies in the report within 90 days of receipt. That person
36 or agent shall have 30 days from receipt of the notification to
37 correct the noted deficiencies and forward the revised reports to
38 the director and the lead agency. Any person who fails to comply
39 with this section, or knowingly provides incorrect or false
40 information in reports required by this section, may be subject to

1 an administrative penalty as provided in subdivision (c) of Section
2 2774.1.

3 (d) (1) The board shall impose, by regulation, pursuant to
4 paragraph (2), an annual reporting fee on, and method for collecting
5 annual fees from, each active or idle mining operation. The
6 maximum fee for any single mining operation shall not exceed
7 four thousand dollars (\$4,000) annually and shall not be less than
8 one hundred dollars (\$100) annually, as adjusted for the cost of
9 living as measured by the California Consumer Price Index for all
10 urban consumers, calendar year averages, using the percentage
11 change in the previous year, beginning with the 2005–06 fiscal
12 year and annually thereafter.

13 (2) (A) The board shall adopt, by regulation, a schedule of fees
14 authorized under paragraph (1) to cover the department's cost in
15 carrying out this section and Chapter 9 (commencing with Section
16 2710), as reflected in the Governor's Budget, and may adopt those
17 regulations as emergency regulations. In establishing the schedule
18 of fees to be paid by each active and idle mining operation, the
19 fees shall be calculated on an equitable basis reflecting the size
20 and type of operation. The board shall also consider the total
21 assessed value of the mining operation, the acreage disturbed by
22 mining activities, and the acreage subject to the reclamation plan.

23 (B) Regulations adopted pursuant to this subdivision shall be
24 adopted by the board in accordance with Chapter 3.5 (commencing
25 with Section 11340) of Part 1 of Division 3 of Title 2 of the
26 Government Code. The adoption of any emergency regulations
27 pursuant to this subdivision shall be considered necessary to
28 address an emergency and shall be considered by the Office of
29 Administrative Law to be necessary for the immediate preservation
30 of the public peace, health, safety, and general welfare.

31 (3) The total revenue generated by the reporting fees shall not
32 exceed, and may be less than, the amount of three million five
33 hundred thousand dollars (\$3,500,000), as adjusted for the cost of
34 living as measured by the California Consumer Price Index for all
35 urban consumers, calendar year averages, using the percentage
36 change in the previous year, beginning with the 2005–06 fiscal
37 year and annually thereafter. If the director determines that the
38 revenue collected during the preceding fiscal year was greater or
39 less than the cost to operate the program, the board shall adjust

1 the fees to compensate for the overcollection or undercollection
2 of revenues.

3 (4) (A) The reporting fees established pursuant to this
4 subdivision shall be deposited in the Mine Reclamation Account,
5 which is hereby created. Any fees, penalties, interest, fines, or
6 charges collected by the director or board pursuant to this chapter
7 or Chapter 9 (commencing with Section 2710) shall be deposited
8 in the Mine Reclamation Account. The money in the account shall
9 be available to the department and board, upon appropriation by
10 the Legislature, for the purpose of carrying out this section and
11 complying with Chapter 9 (commencing with Section 2710), which
12 includes, but is not limited to, classification and designation of
13 areas with mineral resources of statewide or regional significance,
14 reclamation plan and financial assurance review, mine inspection,
15 and enforcement.

16 (B) (i) In addition to reporting fees, the board shall collect five
17 dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of
18 silver mined within the state and shall deposit the fees collected
19 in the Abandoned Mine Reclamation and Minerals Fund
20 Subaccount, which is hereby created in the Mine Reclamation
21 Account. The department may expend the moneys in the
22 subaccount, upon appropriation by the Legislature, for only the
23 purposes of Section 2796.5 and as authorized herein for the
24 remediation of abandoned mines.

25 (ii) Notwithstanding subdivision (j) of Section 2796.5, fees
26 collected pursuant to clause (i) may also be used to remediate
27 features of historic abandoned mines and lands that they impact.
28 For purposes of this section, historic abandoned mines are mines
29 for which operations have been conducted before January 1, 1976,
30 and include, but are not limited to, historic gold and silver mines.

31 (5) In case of late payment of the reporting fee, a penalty of not
32 less than one hundred dollars (\$100) or 10 percent of the amount
33 due, whichever is greater, plus interest at the rate of 1 ½ percent
34 per month, computed from the delinquent date of the assessment
35 until and including the date of payment, shall be assessed. New
36 mining operations that have not submitted a report shall submit a
37 report prior to commencement of operations. The new operation
38 shall submit its fee according to the reasonable fee schedule
39 adopted by the board, and the month that the report is received
40 shall become that operation's anniversary month.

(6) Notwithstanding any other law, ~~a state mining operation~~
single operator of a mining operation or a mining company with
a single mining operation that is declared becomes idle, as defined
in Section 2727.1, and that is operating under an interim
management plan because of its minimum annual production level,
pursuant to subdivision (h) of Section 2770, shall qualify, *on a*
calendar year basis, for the low gross exemption, pursuant to
Section 3699 of Title 14 of the California Code of Regulations, *if*
the mining operation is also in compliance with all applicable
requirements of this section, the Surface Mining and Reclamation
Act of 1975 (Chapter 9 (commencing with Section 2710)), and
regulations adopted thereunder by the State Mining and Geology
Board.

(e) The lead agency, or the board when acting as the lead agency,
may impose a fee upon each mining operation to cover the
reasonable costs incurred in implementing this chapter and Chapter
9 (commencing with Section 2710).

(f) For purposes of this section, “mining operation” means a
mining operation of any kind or character whatever in this state,
including, but not limited to, a mining operation that is classified
as a “surface mining operation” as defined in Section 2735, unless
excepted by Section 2714. For the purposes of fee collections only,
“mining operation” may include one or more mines operated by
a single operator or mining company on one or more sites, if the
total annual combined mineral production for all sites is less than
100 troy ounces for precious metals, if precious metals are the
primary mineral commodity produced, or less than 100,000 short
tons if the primary mineral commodity produced is not precious
metals.

(g) Any information in reports submitted pursuant to subdivision
(a) that includes or otherwise indicates the total mineral production,
reserves, or rate of depletion of any mining operation shall not be
disclosed to any member of the public, as defined in subdivision
(b) of Section 6252 of the Government Code. Other portions of
the reports are public records unless excepted by statute. Statistical
bulletins based on these reports and published under Section 2205
shall be compiled to show, for the state as a whole and separately
for each lead agency, the total of each mineral produced therein.
In order not to disclose the production, reserves, or rate of depletion
from any identifiable mining operation, no production figure shall

1 be published or otherwise disclosed unless that figure is the
2 aggregated production of not less than three mining operations. If
3 the production figure for any lead agency would disclose the
4 production, reserves, or rate of depletion of less than three mining
5 operations or otherwise permit the reasonable inference of the
6 production, reserves, or rate of depletion of any identifiable mining
7 operation, that figure shall be combined with the same figure of
8 not less than two other lead agencies without regard to the location
9 of the lead agencies. The bulletin shall be published annually by
10 June 30 or as soon thereafter as practicable.

11 (h) The approval of a form by the board pursuant to this section
12 is not the adoption of a regulation for purposes of Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3 of Title
14 2 of the Government Code and is not subject to that chapter.